

Joseph Miner  
PO Box 11650  
Costa Mesa, CA 92627  
Telephone: (949) 903-5051; Fax: (949) 646-2794  
Email Address: josephminer@gmail.com

self-represented (pro se)

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JOSEPH MINER, an individual,

Plaintiff,

vs.

CITY OF DESERT HOT SPRINGS,  
CALIFORNIA, a municipal corporation;

TUAN ANH VU, an individual, in his  
investigative and administrative capacity;

PRESIDING JUDGE RIVERSIDE  
COUNTY SUPERIOR COURT, Judith  
Clark in her official, executive, and  
administrative capacity;

CHIEF EXECUTIVE OFFICER  
RIVERSIDE COUNTY SUPERIOR  
COURT, Jason Galkin, in his official,  
executive, and administrative capacity;

DOE DEFENDANTS 1-20,

Defendants.

Civil Action No. 8:24-cv-02793-CAS (E)

Related: 8:22-cv-01043-CAS-MAA (stayed)

Honorable Christina A. Snyder  
Senior United States District Judge

Honorable Charles F. Eick  
United States Magistrate Judge

OPPOSITION

PLAINTIFF'S OPPOSITION TO COURT  
DEFENDANTS' MOTION TO DISMISS  
PURSUANT TO RULES 12(b)(1), 12(b)(6) OF  
THE FEDERAL RULES OF CIVIL PROCEDURE

Declaration of Joseph Miner with exhibits

Hearing Date: None

Due: May 15, 2025 or earlier

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## I. INTRODUCTION

1. The tale of two federal lawsuits. While state defensive litigation was ongoing, **Miner I**, was brought against the City of Desert Hot Springs (“City”) and various City personnel to address a panoply of legal issues that arose from a warrantless search and seizure by the City, various constitutional violations, and dubious related code enforcement acts against Miner and his four parcel ranch, that had been annexed into the City limits.

2. **Miner I**, (See Joseph Miner v. Christina Newsom, et al., Case No. 8:22-cv-01043 -CAS (MAAx) (“Miner I”) is ‘stayed’ and is in the hands of Miner’s attorney (Rosenblit). This Court stayed **Miner I** in March 2023, because all parties had requested a stay to allow the two separate trials de novo, regarding two unique and separate land parcels, and different legal issues, complete in the state court system. Then unforeseeable issues (FAC ¶1-14) occurred in state court mandating a second federal case be filed to address new unique legal issues, constitutional violations, and new parties that would need to be decided before **Miner I** could proceed in court.

3. A second action was then filed by Plaintiff Miner in this Court. This case was filed after a dismissal without prejudice in state court, and after it was determined by the appeal decision, the adjudicator, an un-stipulated, clearly “green,” court commissioner, was acting in a subordinate judicial capacity, not as a judge in the superior court case #CVPS2106001. Miner was not aware of these court practices, using commissioners, and constitutional issues when he entered the county limited civil courtroom. The Court defendants label the instant case **Miner II**.

4. After experiencing more than fifty civil trials in his lifetime, and federal actions as long in duration as 12 years, having a good idea of how the court system works (or is supposed to work), had Miner been treated fairly, and been given a fair trial in the state case pursuant to the black letter - law, procedure and plain and clear text that establishes the law of the city ordinances, GC. §53069.4 and CCP. §85-100, Miner would not personally have experienced the gross, unlawful, and damaging inadequacies practiced in the Riverside County court system.

5. Unfortunately (from Miner’s personal experience) most defendants, when pro se, don’t know ~ the law, procedures, or that their civil rights are even being violated. The life long sanctions imposed on Miner, by a “green” non-judge with no judicial power, over these

1 unjustified issues, are damaging, serious, renew daily and are, at this point, permanent. Its  
2 shocking that this fact pattern could even happen when vigorously opposing a city ticket.

3 6. After researching significant law, finding it was grossly and inconsistently applied  
4 throughout the state, and consulting with multiple legal professionals, Miner believed the judicial  
5 officer lacked subject matter jurisdiction and judicial powers. All existing California law and  
6 case law points to the fact a commissioner may not act as a judge without stipulation of parties  
7 litigant. This county court system conveniently ignores the plain text of the law, and believes it  
8 can violate the constitutional protections of US citizens with impunity.

9 7. It should be made clear here that limited civil cases, when appealed are heard in  
10 an Appellate Division. The Appellate Division is comprised of the managing judges in the same  
11 Riverside County superior court system. The same judges who place and permit subordinate  
12 judicial officers to unlawfully act as judges, also hear and rule on the appeals. It's a closed  
13 system with only aberrational review. A party cannot directly take a limited civil case to the  
14 Court of Appeal, a distinctly separate judicial entity for review and true scrutiny. Case after case  
15 in the review court above, the California Court of Appeal, make clear party stipulation is  
16 mandate for an SJO to act as a judge. (See *Jovine v. FHP, Inc.*, (1998) 76 Cal. Rptr. 2d 322).

17 8. The commissioner had wilfully and falsely acted as a superior court judge.  
18 Despite Miner's best legal efforts to object orally, and file non stipulations per law, the 'green'  
19 SJO 'assigned to the case' unconstitutionally remained in control and without any judicial  
20 experience that amounted to more than hours, or civil or administrative judicial law training,  
21 ruled on issue after issue, all while he lacked judicial authority. The case was assigned to his  
22 court room (PS4) and he was 'assigned the case for all purposes.' Coram non judice.

23 9. In the end, State case CVPS2106001 was dismissed without prejudice in trial  
24 court. There was judgment on the merits. No prior case exists against Court defendants.

25 10. Plaintiff Miner chose to appeal the judgment for case CVPS2016001, as well as  
26 an order declaring him a vexatious litigant (as the 'true' defendant in the first instance), to the  
27 Superior Court's Appellate Division to CLARIFY the acts of the commissioner; i.e. whether he  
28 was acting as a superior court judge, temporary judge, or acting as a plain vanilla subordinate

1 judicial officer. It appears Miner was declared a vexatious litigant because of the commissioners  
2 improper assignment, and his mis-understanding with what a GC. §53069.4 limited civil case is.  
3 The point Miner argues is lack of jurisdiction. The ongoing court policy is the root issue.

4 11. There was no warning or notice the subordinate judicial officer would act as a  
5 judge. The SJO had never requested a stipulation ('consent') to act as a judge, and Miner had  
6 never stipulated ('given consent') to permit the commissioner to act as a judge. The result of  
7 Miner's non stipulation was that the commissioner lacked authority to "hear and determine" all  
8 substantive issues within the case, including the demurrer, and all contested motions that "led  
9 up" him declaring Miner a vexatious litigant, in an ancillary proceeding, based the City's motion,  
10 who lacked legal standing (as the true plaintiff) to even file such a motion. These issues violated  
11 Miner's federal constitutional rights to a fair trial, due process, and equal protection.

12 12. While in SJO status, and 'allegedly' unlawfully, without jurisdiction, the SJO  
13 ruled on a multitude of motions and associated issues he had no power (jurisdiction) to rule on.  
14 The City used these unlawful rulings (lack of jurisdiction) as the foundation and basis for it  
15 motion to declare defendant Miner a vexatious litigant.

16 13. Magically, in the very same courtroom, in a separate ancillary court session, the  
17 SJO declared defendant Miner a vexatious litigant. He imposed a security payment on Miner to  
18 continue to defend himself ~ where according to the Appellate Division he acted as a judge. Then  
19 he immediately returned to SJO status and continued to rule against Miner as a subordinate  
20 judicial officer, in the very same courtroom, just minutes later, without changing his robe. **These**  
21 **judicial officer acts were beyond convoluted.**

22 14. In November 2023, the Appellate Division of the Superior Court issued a per  
23 curium Opinion which addressed the vexatious litigant order and clarifying that Honorable  
24 Arthur C. Hester, III, adjudicating the case was not acting in the capacity of a judge in the trial of  
25 case CVPS2016001. The judgment of dismissal without prejudice was not addressed in the  
26 decision and most of the appeal arguments ignored.

27 15. The Appellate Division's 'motivated reasoning' utterly failed in its Opinion  
28 explaining how a subordinate judicial officer could act as a subordinate officer one minute, and



1 five minutes later, again with no notice, no request for stipulation from the commissioner, and no  
2 stipulation by parties litigant, and no consent or stipulation on record, act as a temporary superior  
3 court judge. Magically Miner was converted from ‘label’ defendant to ‘label’ plaintiff, and the  
4 un-stipulated SJO was converted to ‘label’ judge, then back to SJO ~ these instant labels justified  
5 every act. These are the facts. Miner does not label this as err, error, or request review.

6 16. No state proceedings currently exist. Rather than wasting this court’s valuable  
7 time and resources, Plaintiff filed this action in December 2024 complaining of the new unique  
8 constitutional legal issues that have resulted from the acts taken by the commissioner, the  
9 conclusions of the Appellate Division, and the concrete facts, as echoed by the Appellate  
10 Division in its own Opinion ~ there was no state court judge that heard and determined the case.

11 17. When the Appellate Division correctly identified the fact that the commissioner  
12 was not acting as a judge (FAC Dkt 6-1: #540). The Appellate Division’s assessment  
13 (unwittingly) tilted everything in Miner’s favor. The law seems clear that the commissioner  
14 lacked judicial powers in both superior court cases and all rulings, decrees, judgments and orders  
15 against Miner.

16 18. Miner asserts lack of jurisdiction, not proper jurisdiction and legal error. The SJO  
17 lacked judicial authority to “hear and determine” the two separate limited civil state cases. Per  
18 federal case law Miner may now have the case and constitutional defenses heard in federal court.  
19 (Jamgotchian v. Ferraro, 93 F. 4th 1150 - Court of Appeals, 9th Circuit 2024).

20 19. Miner expected this case, **Miner II**, to be instantly assigned to Honorable Judge  
21 Christina Snyder, which it has been. When Miner II has been decided by this court there may be a  
22 completely different posture for adjudicating the allegations in Miner I. (Chicken and the egg)

23 20. Miner contends the state court judgment of dismissal is void abinito, but that is an  
24 issue to be addressed another day. Miner does not ‘complain’ of this issue as fact in the instant  
25 federal complaint. This is the short history of why these unconstitutional court assignments, and  
26 law must be clarified, cured, and Miner be given prospective relief.

27 21. Apparently, the state Court’s defendants’ counsel hopes this court will dismiss  
28 this case without comprehensively reading every word of the pleadings, exhibits, law, and recent

1 decisions presented by Plaintiff. The court must apply the issues and inferences liberally ~ and  
2 most favorable to Miner, the non moving party, who is currently pro se. The instant complaint is  
3 the first complaint served on any party and can be amended to correct any pleading defect,  
4 deficiency including vague or erroneous text. It should be viewed as the initial complaint.

5 22. The facts and law are on Miner's side. Argue as they may, the Court's counsels'  
6 arguments fail on all counts. Facts are mis-stated and categorically false statements made in  
7 defendants' motion are insulting. Again we fend off gross mis-characterizations, false facts, false  
8 statements, and false labels.

9 23. The FAC allegations are that the presiding judge (responsible party) and or  
10 administrator (see rules of court), (or automated computer system determined through discovery),  
11 in a non judicial act, directs or assigns categories of cases to courtrooms, where subordinate  
12 judicial officers are assigned and preside. (ex 1, decl. Hester)

13 24. Assigning subordinate judicial officers, who are not judges, to adjudicate and  
14 issue judgments in limited civil actions, for all purposes, without stipulation of the parties  
15 litigant, is in violation of law. (People v. Berch, (2018) 29 Cal. App. 5th 966, 975-976; Burnham  
16 v. Superior Court of Cal., County of Marin, 495 US 604 - Supreme Court 1990 p. 609.)

## 17 II FACTS

18 25. Despite the Court defendant's twists and mis-characterization of the facts and law,  
19 listed below are the initial facts as alleged in the instant complaint.

20 26. Miner's allegations are that a state court presiding judge who assigns cases, or  
21 maintains a policy to assign cases, in some way, either through a subordinate or through a  
22 computer system, is making general assignments for all purposes to subordinate judicial officers  
23 who lack jurisdiction over the cases. This is a constitutional dilemma. These issues must be  
24 addressed to preserve the integrity of the judicial system.

### 25 A. The Complaint's (FAC) Salient Facts

- 26 • Miner "was issued a citation for the north land parcel (APN 657-220-005)" (FAC ¶33);
- 27 • Miner "paid one fee in advance just to file an administrative appeal" (FAC ¶75);
- 28 • Miner "never received the administrative hearing" (FAC ¶75);

- 1 • Miner ‘requested’ a trial de novo in superior court” (FAC ¶39);
- 2 • Miner “orally requested a judge in open court” (FAC ¶44);
- 3 • “Per law, with obvious repetitive non-stipulations, Miner did all that he could do to secure a
- 4 judge. Non stipulating clearly became futile” (FAC ¶53);
- 5 • “Miner then attempted to remove the commissioner. The commissioner filed a declaration
- 6 stating he was ‘assigned the case for all purposes’ and refused to recuse himself.” (FAC ¶53);
- 7 • “No judge oversaw any act, decision, or ruling the non-stipulated SJO made. (FAC ¶54);
- 8 • “The SJO dismissed the trial de novo case without prejudice” (FAC ¶75);
- 9 • Miner **“seeks prospective declaratory and injunctive relief against the Court defendants,**
- 10 **not damages or retrospective relief”** (FAC ¶12);
- 11 • “As a proximate result of the foregoing acts of City defendants, and each of them, plaintiff
- 12 has suffered extreme hardship and damages, which damages include, but is not limited to,
- 13 economic damages, according to proof at trial, but no less than \$2,000,000.00, **and to**
- 14 **appropriate declaratory and injunctive relief against all the defendants** (FAC ¶332)
- 15 • PRESIDING JUDGE RIVERSIDE COUNTY SUPERIOR COURT, Judith Clark in her
- 16 official, executive, and administrative capacity; (p 1)
- 17 • CHIEF EXECUTIVE OFFICER RIVERSIDE COUNTY SUPERIOR COURT, Jason
- 18 Galkin, in his official, executive, and administrative capacity; (p 1)
- 19 • “Superior court defendant officials are sued in their administrative, executive, and official
- 20 capacities.” (FAC ¶23)
- 21 • “A code officer opened code case 21-566. Officer Tiyler Messer late changed the case
- 22 number to 21-985. On August 18, 2021 officer Messer issued administrative citation
- 23 #27948D listing five separate allegations or which four were designated as “public
- 24 nuisances” (FAC 240)
- 25 • The citation was issued against land parcel APN 657-220-005 aka 66381 Dillon Road,
- 26 Desert Hot Springs, CA 92240 (Ranch). Miner’s ranch land area is comprised of 4 separate
- 27 parcels of land containing about 5 acres or in excess of 200,000 sf. The perimeter is fenced
- 28 and gated. Miner’s 6' fenced ranch land area is larger than the entire 4+ acre square block

1 site for the U.S. district courthouse at 1st St. and Hill St., Los Angeles, CA. (FAC 241)

- 2 • There was no judgment on the merits as to the issues in Riverside County court case
- 3 **CVPS2106001**. (FAC ¶166)
- 4 • Miner was injured (FAC ¶1, 4, 13, 30, 38, 133, 206, 209, 210, 218, 220, 221, 222, 239, 250,
- 5 251, 253, 261, 262, 266, 277, 290, 308, 322)
- 6 • In the Riverside County limited civil action (CVPS2106001) Miner was listed as Defendant
- 7 and Appellant (ex 11). (FAC ¶44)
- 8 • “As stated, the case was dismissed without prejudice” (FAC ¶166)

9 **B. Misleading Statements and Mis-characterizations by Court Defendants**

10 27. Defendants’ motion is littered with false and mis-characterized statements. As an  
11 example see page 8, ln 19-21: “At the time the Court stayed the case in Miner I, the Honorable  
12 Arthur C. Hester, III, Commissioner of Riverside County Superior Court, had entered a  
13 judgment in favor of the City.” **This statement by defendants is materially false to this case.**

14 28. This statement is categorically false as are many throughout the motion. “There  
15 was no judgment on the merits as to the issues in Riverside County court case **CVPS2106001**.”  
16 (FAC ¶166)), “The SJO dismissed the trial de novo case without prejudice” (FAC ¶75). Miner  
17 refuses to waste time and white space to correct all of defendants’ wilful errors. The intertwined  
18 shotgun homogenized style boiler plate motion with its false statements and mis-  
19 characterizations is difficult to follow and dissect for opposition.

20 **III THE LAW AND OPPOSITION**

21 29. Miner addresses and opposes each of Court defendants claims in the order argued  
22 by Court defendants. Plaintiff’s allegations hover around the administrative duties of the  
23 presiding judge of superior court and assignment of cases for trial. Miner does not challenge the  
24 constitutionality of the GC. §53069.4 statute per se, but contends a specific clause (b)(3) is mis-  
25 interpreted and mis-applied by Riverside County. (See defendants Dkt Page ID #:1043). Plaintiff  
26 could add the California Attorney General as a defendant and challenge the constitutionality of  
27 the vague statute to preserve the action, but that should not be necessary.

28 30. This aspect of the case is about a California presiding judge, California judicial

1 rules, California case law, and the presiding judge's administrative assignment of subordinate  
2 judicial officers in general assignments to act as superior court judges in violation of the US  
3 constitution, fourteenth amendment, state constitution article VI, sections 21 & 22 , state statutes  
4 §72190 and §259a, §53069.4(b)(3) and numerous historical case law holdings. In essence the  
5 general assignment of a non judge to act with power of a judge violates many laws.

6 **A. ROOKER-FELDMAN DOES NOT APPLY TO THIS ACTION**

7 31. The Court's decision in Exxon Mobil Corp. v. Saudi Basic Industries Corp.  
8 restored Rooker-Feldman to its original boundaries. Exxon Mobil Corp. v. Saudi Basic Industries  
9 Corp., 544 US 280 - Supreme Court 2005. The doctrine occupies "narrow ground" and is  
10 "confined to cases of the kind from which the doctrine acquired its name"—that is, Rooker and  
11 Feldman. Id. at 284, 125 S.Ct. 1517; Rooker v. Fid. Tr. Co., 263 U.S. 413, 44 S.Ct. 149, 68 L.Ed.  
12 362 (1923); D.C. Court of Appeals v. Feldman, 460 U.S. 462, 103 S.Ct. 1303, 75 L.Ed.2d 206  
13 (1983). Those cases held that state court litigants do not have a right of appeal in the lower  
14 federal courts; they cannot come to federal district courts "complaining of injuries caused by  
15 state-court judgments rendered before the district court proceedings commenced and inviting  
16 district court review and rejection of those judgments." [1] Exxon Mobil, 544 U.S. at 284, 125  
17 S.Ct. 1517.

18 32. **Only when a losing state court litigant calls on a district court to modify or**  
19 **"overturn an injurious state-court judgment" should a claim be dismissed under**  
20 **Rooker-Feldman**; district courts do not lose subject matter jurisdiction over a claim "simply  
21 because a party attempts to litigate in federal court a matter previously litigated in state court."  
22 Exxon Mobil, 544 U.S. at 292-93, 125 S.Ct. 1517. Nor is Rooker-Feldman "simply preclusion by  
23 another name." Lance v. Dennis, 546 U.S. 459, 466, 126 S.Ct. 1198, 163 L.Ed.2d 1059 (2006).

24 33. Only the Supreme Court can "reverse or modify" state court judgments; neither  
25 district courts nor the circuits can touch them. An injunction is incidental to relief which is  
26 clarification of the law. (Nielson v. Utah Const. Co., 104 F. 2d 887 - Circuit Court of Appeals,  
27 9th Circuit 1939).

28 34. "Rooker-Feldman distinguishes between "attacking the decision of a state court"

1 and "attacking an adverse party's actions in obtaining and enforcing that decision"). ...  
2 **"Therefore, the "inextricably intertwined" test is never triggered and Defendants'**  
3 **arguments based on that test are incorrect..."** "This circuit has emphasized that [o]nly when  
4 there is already a forbidden de facto appeal in federal court does the inextricably intertwined test  
5 come into play.") (Rooker-Feldman distinguishes between "attacking the decision of a state  
6 court" and "attacking an adverse party's actions in obtaining and enforcing that decision"). See  
7 Garduno v. AUTOVEST LLC, 143 F. Supp. 3d 923 - Dist. Court, D. Arizona 2015. Citing Noel  
8 v. Hall, 341 F. 3d 1148 - Court of Appeals, 9th Circuit 2003; Exxon Mobil Corp. v. Saudi Basic  
9 Industries Corp., 544 US 280 - Supreme Court 2005); Cooper v. Ramos, 704 F. 3d 772 - Court of  
10 Appeals, 9th Circuit 2012; Bell v. City of Boise, 709 F. 3d 890 - Court of Appeals, 9th Circuit  
11 2013.

12 35. Miner's complaint is clear in its attack and how Miner was injured (FAC ¶1, 4,  
13 13, 30, 38, 133, 206, 209, 210, 218, 220, 221, 222, 239, 250, 251, 253, 261, 262, 266, 277, 290,  
14 308, 322). Miner does not request review and reject or attack the judgment or order.

15 **Rooker-Feldman has four elements:**

16 [1] the federal court plaintiff must have lost in state court; [2] the plaintiff must complain of  
17 injuries caused by the state court judgment; [3] the plaintiff must be asking the district court  
18 to review and reject that judgment; and [4] the state court judgment must have been rendered  
19 before the district court proceedings commenced (i.e., Rooker-Feldman has no application to  
20 federal court suits proceeding in parallel with ongoing state court litigation).

21 Virginia A. Phillips and Karen L. Stevenson, California Practice Guide: Federal Civil  
22 Procedure Before Trial, Subject Matter Jurisdiction § 2:4946 (Rutter Group 2021).

23 36. Plaintiff's claims are not barred and defendants analysis of Kleidman is correct.  
24 See Kleidman v. Buchanan, No. 23-cv-1251-WQH-JLB, 2025 WL 755945, at \*13 (S.D. Cal.  
25 Mar. 19, 2025) (holding that "general constitutional challenges to California court 'system[s] and  
26 practice[s]' are not barred by Rooker-Feldman because they do not require the Court to review a  
27 judicial decision in a particular case). The state case here was dismissed without prejudice..

28 37. Miner is not a state court loser (which does not apply any longer pursuant to Judge

1 Fletcher of the 9<sup>th</sup> circuit), the case against Miner was dismissed without prejudice. Miner does  
2 not request review of the dismissed action. Miner complains of the convenient mis-interpretation  
3 of the law which was elevated to a constitutional due process, equal protection and fair trial  
4 issues at case initiation, long before the case was heard or dismissed.

5 38. The state case at issue CVPS2106001 was dismissed without prejudice. (ex Dkt  
6 27-1, #993) **Court defendants fail to cite a single case in the entire federal court system**  
7 **where Rooker Feldman was applied to a judgment of dismissal without prejudice.** Miner's  
8 first amended complaint (FAC) does not contain the elements required of a Rooker-Feldman  
9 dismissal nor does Miner's defense of the city's dismissed state court action apply to this  
10 situation.

11 39. Here Miner does NOT require this court to review any judicial decision. Miner  
12 attacks the underlying constitutional issues, not the judgment or orders. Law is clarified routinely  
13 without affecting previous cases or holdings. (Miller v. Gammie, 335 F. 3d 889 - Court of  
14 Appeals, 9th Circuit 2003)

15 40. Instead of seeking relief from prior state court judgments, Miner seeks declaratory  
16 and injunctive relief against the future Riverside court general assignments of subordinate  
17 judicial officers to act as judges without the express and knowledgeable stipulation (consent) of  
18 party litigants. Rooker Feldman does not apply. Party stipulation is required by law (ex 2.

19 41. It is a reasonable request and argument that a defendant have express notice, and a  
20 meaningful and express opportunity in the courtroom to reject a non judge from adjudicating  
21 their limited civil case. Miner contends that is already the law in California.

## 22 **B. THE ELEVENTH AMENDMENT DOES NOT APPLY TO THIS ACTION**

23 42. Miner does not sue in judicial capacity. Assignment of cases under California law  
24 is an administrative function of the court: "*The assignment of cases for trial is among the*  
25 *administrative responsibilities of the court. (See Gov. Code, § 69508; Cal. Rules of Court, rule*  
26 *205.) (People v. Coddington, 2 P. 3d 1081 - Cal: Supreme Court 2000 .p. 574)*

27 43. The presiding judge and administrative officer, sued in their official, executive,  
28 and administrative capacity, are proper defendants in this action. The text of the law is already



1 clear. Gov. Code §53069.4(b)(3) does not mention the critical text “hear and determine” which  
2 places the SJO in a position of a fact finder, not a decider. The Legislature was well aware of the  
3 requirements of stipulation of parties litigant (ex 2). To act as decision maker, a stipulation of the  
4 parties litigant would be mandatory. Rather than repeat the arguments made Miner refers the  
5 court to his opposition to City defendants motion to dismiss Dkt #27 and the FAC dkt #6. Both  
6 filings significantly address these issues.

7 {“Suits against state officials in their official capacities seeking prospective injunctive  
8 relief for ongoing and continuous violations of federal law are not barred by the Eleventh  
9 Amendment. The Ex parte Young exception applies when the plaintiff names an  
10 individual state official. See S. Pac. Transp. Co. v. City of L.A., 922 F.2d 498, 508 (9th  
11 Cir. 1990). We have permitted plaintiffs leave to amend to conform their pleading with  
12 Young, see Ariz. Students' Ass'n v. Ariz. Bd. of Regents, 824 F.3d 858, 865-66 (9th Cir.  
13 2016).” (See Steshenko V. Board of Trustees of Foothill-de Anza Community College  
14 District, Dist. Court, Nd California 2025)}

15 {“We held that the Eleventh Amendment barred suit against the state entities. Id. at 364.  
16 But for the individual state-court justices, **we held that the Ex parte Young exception**  
17 **applied—meaning that the Eleventh Amendment did not bar claims for prospective**  
18 **and injunctive declaratory relief against them in their official capacities.** Id. at 365.”  
19 (See Munoz v. Superior Court of Los Angeles County, 91 F. 4th 977 - Court of Appeals,  
20 9th Circuit 2024)}

21 {“Since Wolfe also sued Chief Justice George in his administrative capacity as Chair of  
22 the Judicial Council, we conclude that dismissal is not warranted on the basis of judicial  
23 immunity.” (See Wolfe v. Strankman, 392 F. 3d 358 - Court of Appeals, 9th Circuit  
24 2004)}

## 25 **Ex parte young**

26 44. Miner notes that Whole Woman's Health v. Jackson, 595 US 30 - Supreme Court  
27 2021 (Dkt Page ID #:1049:ln 16-24) does not apply and is distinguishable. Miner does not ask  
28 this court to enjoin a state court from enforcing a legal state law that is violation with federal law.



1 Miner requests this court to uphold state law, clarify the text of a clause in state law, and enjoin a  
2 presiding judge in a single county court from mis-applying a state law which is violating federal  
3 law and the Constitution. The text of the Supreme Court holding is very precise in Whole  
4 Woman's Health and has no application here.

5 45. This court should take note Miner attempted to appeal ~ but it should be noted  
6 [with emphasis] the Appellate Division (same judges of superior court) absolutely denied<sup>1</sup>  
7 Miner's ability to appeal and clarify the law and jurisdiction of the SJO in state court. There is no  
8 state court remedy for that denial (FAC ¶177-181). The blackhole of being labeled a vexatious  
9 litigant.

10 46. Judges are sued in their individual, official and administrative capacities on a  
11 regular basis.

12 {"Chief Justice Cantil-Sakauye, sued in her administrative capacity as Chair of the  
13 Judicial Council of California, is a proper defendant under the Ex parte Young exception  
14 to sovereign immunity." Wolfe v. Strankman, 392 F.3d 358, 365-66 (9th Cir. 2004)."  
15 (See Pierce v. Cantil-sakauye, Court of Appeals, 9th Circuit 2016)}

16 {"Sovereign immunity does not bar suits seeking to impose individual liability on  
17 government officials. Lewis, 581 U.S. at 162-63; Magassa v. Mayorkas, 52 F.4th 1156,  
18 1162 (9th Cir. 2022); Acres Bonusing, 17 F.4th at 908. "'Officers sued in their personal  
19 capacity come to court as individuals,' and the real party in interest is the individual, not  
20 the sovereign." Lewis, 581 U.S. at 162-63 (quoting Hafer v. Melo, 502 U.S. 21, 27 (1991)  
21 (brackets omitted)). The question, then, is whether the plaintiff's suit is properly  
22 characterized as an individual capacity suit, or one that is really against the sovereign.  
23 (Clyde Cheng V. Speier, Court of Appeals, 9th Circuit 2023)}

24 "In deciding whether the sovereign is the real party in interest, "[t]he critical question is

---

25  
26 <sup>1</sup> An prefiling order denying a vexatious litigant's request to file new litigation is not  
27 among the appealable orders listed in section 904.1. It is not a post judgment order because the  
28 order does not involve issues different from those underlying the judgment, and it does not  
involve enforcement to stay issues. (Lakin v. Watkins Associated Industries (1993) 6 Cal.4th  
644, 651.)

1       `whether the remedy sought is truly against the sovereign.'" Acres Bonusing, 17 F.4th at  
2       908 (quoting Lewis, 581 U.S. at 162)). **Importantly, this does not mean that sovereign**  
3       **immunity applies whenever government officials "are sued for actions taken in the**  
4       **course of their official duties." Id. at 910 (quoting Pistor v. Garcia, 791 F.3d at 1112).**  
5       **..."** (Clyde Cheng V. Speier, Court of Appeals, 9th Circuit 2023)}

6       47. Counsel confuses conflates and mis-states state law with federal law. Under state  
7       law and rules of the court the general assignment of cases in an administrative function.

8       48. Additionally, this is not about assigning a specific judge to a specific case for a  
9       specific reason, this is about arbitrary assignment of administrative de novo trials (and other  
10       limited civil cases such as unlawful detainers) to commissioners, in Miner's case to Palm Springs  
11       courtroom PS4, a Palm Springs courtroom that serves the nine cities of the Coachella Valley.

12       49. General assignments of subordinate judicial officers to act as judges is in violation  
13       of rules of the court, state law, federal law, and common law. It is a known policy of this court.

14       50. The presiding judge's general assignment of cases for trial is an administrative  
15       function. "The assignment of cases for trial [under California law] is among the administrative  
16       responsibilities of the court. (See Gov. Code, § 69508; Cal. Rules of Court, rule 205.)" (See  
17       People v. Coddington" 97 Cal.Rptr.2d 528,2 P.3d 1081,23 Cal. 4th 529 - Cal: Supreme Court  
18       2000" Also see Rules 3.734, 10.603, 10.741, 742 (Under (b)(4), the test for the appearance of  
19       impropriety is whether a person aware of the facts might entertain a doubt that the judge would be  
20       able to act with integrity, impartiality, and competence. Commissioners, upon stipulation, are  
21       temporary judges (Real v. City of Riverside, 115 Cal. Rptr. 2d 705 - Cal: Court of Appeal, 4th  
22       Appellate Dist., 2nd Div. (2002)). This County has been in trouble before.

23       51. There are nine categories of subordinate judicial officers, each may perform  
24       subordinate judicial duties; none have the authority to act as a judge without stipulation and  
25       cannot be 'assigned' (general assignment) for all purposes to a court room or a case without  
26       stipulation of the parties (See In re Perrone C., (1979 ) 26 Cal.3d 49, 51(similar issues); People v.  
27       Tijerina (1969) 1 Cal.3d 41, 48; (ex 1, declaration of commissioner Arthur Hester)

28       52. In re Perrone C., (1979 ): "(See 1967 Judicial Council Report, p. 89. ex 2) Both

1 before and after the 1966 revision of article VI, however, **a stipulation of the parties was**  
2 **constitutionally required for one not occupying the office of judge to serve as a temporary**  
3 **judge.”** (ex 2, excerpts from 1967 Judicial Council Report)

4 53. Miner does not attack the entire statute. Miner requests judicial clarification of the  
5 words and meaning of a single clause within the statute.

6 54. The Court defendant’s motion is vague and confusing. **City defendants have**  
7 **waived and forfeited a claim as to what state court case it is referring to. In its 23 page**  
8 **missive it fails to identify a single state court case.** The Eleventh Amendment does not bar this  
9 claim against the Court defendants in individual, official and or administrative capacity.

10 **C. THE COURT DEFENDANTS CONTROL JUDICIAL ASSIGNMENTS AND ARE**  
11 **PROPER DEFENDANTS**

12 **California rules of The Court**

13 Rule 10.603. Authority and duties of presiding judge

14 [https://courts.ca.gov/cms/rules/index/ten/rule10\\_603](https://courts.ca.gov/cms/rules/index/ten/rule10_603)

15 (a) General responsibilities

16 **The presiding judge is responsible, with the assistance of the court executive officer,**  
17 for leading the court, establishing policies, and allocating resources in a manner that  
18 promotes access to justice for all members of the public, provides a forum for the fair and  
19 expeditious resolution of disputes, maximizes the use of judicial and other resources,  
20 increases efficiency in court operations, and enhances service to the public. **The presiding**  
21 **judge is responsible for:**

22 (1) Ensuring the effective management and administration of the court, consistent  
23 with any rules, policies, strategic plan, or budget adopted by the Judicial Council or the  
24 court;

25 (b) Authority

26 (1) The presiding judge is authorized to:

27 (A) **Assign judges to departments and designate supervising judges for divisions,**  
28 **districts, or branch courts;**

1 (c) Duties

2 (1) Assignments

3 **The presiding judge has ultimate authority to make judicial assignments.** The  
4 presiding judge must:

5 (A) Designate a judge to preside in each department, including a master calendar judge  
6 when appropriate, and designate a presiding judge of the juvenile division and a  
7 supervising judge for each division, district, or branch court. **In making judicial**  
8 **assignments, the presiding judge must take into account the following:**

9 (i) The needs of the public and the court, as they relate to the efficient and effective  
10 management of the court's calendar;

11 (ii) **The knowledge and abilities demanded by the assignment;**

12 (iii) **The judge's judicial and nonjudicial experience, including specialized training or**  
13 **education;**

14 “The presiding judge's authority over judicial assignments is supported by rule 10.608,  
15 which sets forth the duties of all judges. Under rule 10.608(1) and (5), each judge must  
16 generally “[h]ear all assigned matters,” and must “[f]ollow **directives of the presiding**  
17 **judge in matters of court management and administration**, as authorized by the rules  
18 of court and the local rules and internal policies of the court.” Under rule  
19 10.603(c)(4)(A)(i), the presiding judge must notify the Commission on Judicial  
20 Performance of a judge's “persistent refusal to carry out assignments as assigned by the  
21 presiding judge,” or “the directives of the presiding judge as authorized by the rules of  
22 court.” (*Alvarez v. Superior Court*, 183 Cal. App. 4th 969 - Cal: Court of Appeal, 1st  
23 Appellate Dist., 1st Div. 2010) also see *Simon v. BRABEC*, Cal: Court of Appeal, 1st  
24 Appellate Dist., 3rd Div. 2024,

25 55. This case presents important questions concerning the construction of 42 U. S. C.  
26 §1983, which reads as follows:

27 {“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of  
28 any State or Territory, subjects, or causes to be subjected, any citizen of the United States

1 or other person within the jurisdiction thereof to the deprivation of any rights, privileges,  
2 or immunities secured by the Constitution and laws, shall be liable to the party injured in  
3 an action at law, **suit in equity, or other proper proceeding for redress.**"}

4 56. Miner sues the Court defendants for Denial of Procedural Due Process under 42  
5 U.S.C. Section 1983 - Fourteenth Amendment / Common law. Denial of Equal Protection 42  
6 U.S.C., Section 1983 - Fourteenth Amendment / Common law.

7 57. Court defendants have waived and forfeited argument as to fourteenth amendment  
8 and common law claims against Court defendants. No mention of the fourteenth amendment and  
9 common law claims are argued in the brief. The Court defendants in the capacities alleged are  
10 proper defendants in this action.

11 **D. PLAINTIFF HAS STANDING TO PURSUE HIS CLAIMS FOR PROSPECTIVE**  
12 **RELIEF**

13 58. Plaintiff had been injured previously and was injured on the date the action was  
14 filed with the general assignment to a commissioner. Plaintiff was cited by the City of Desert Hot  
15 Springs multiple times (6) but only chose to appeal two times to superior court mostly because of  
16 duplicative citations. Miner has personally experienced this violation relating to de novo citation  
17 oppositions four distinct times to date in Riverside Superior Court.

18 59. The 'request' for de novo trials become limited civil cases. Each time Miner filed  
19 his limited civil case was generally assigned to courtroom PS4 and a court commissioner. Post  
20 trial, Miner then filed motions to vacate the void judgments. Again, two times more, the limited  
21 civil motions were assigned to courtroom PS4 and a court commissioner. This time the  
22 commissioner (Hodgkins) recused himself only after Miner filed a §170.6 motion. Commissioner  
23 Hester refused to recuse himself after Miner two well documented recusals. Miner's damages and  
24 injuries are defined in the FAC and Opposition to City defendants motion to dismiss. Miner has  
25 suffered and will suffer a continuing constitutional injury.

26 60. Miner has also filed more than 10 limited civil 'unlawful detainers' in Palm  
27 Springs, these were also assigned to courtroom PS4 and a court commissioner. At least nine (9)  
28 other defendant parties' limited civil 'de novo' court trials have been 'generally assigned' to

1 courtroom PS4 and a court commissioner. Limited civil trials de novo (new trials with new  
2 evidence) mandate that a party 'consent' to be tried by a court commissioner. These assignments  
3 without consent, in violation of a citizens rights, are routine.

- 4 • City of Rancho Mirage v. Bennett, CVPS2106088, pro per, Hester
- 5 • City of Rancho Mirage v. Sloan Menninger, CVPS2106105, pro per, Hester
- 6 • Cathedral City v. Muradyan, CVPS2201583, pro per, Hester
- 7 • City of La Quinta vs Avantstay, Inc., CVPS2203771, Hester
- 8 • Cathedral City v. Montanaro, CVPS2302625, pro per, Hester
- 9 • City of Rancho Mirage v. Davis, CVPS2301620, pro per, Hester
- 10 • City of Indio v. Gregorian, CVPS230161, pro per, Hester
- 11 • Cathedral City v. Levik, CVPS2403242, pro per, Hodgkins (current commissioner)
- 12 • Cathedral City v. Rayl, CVPS2403265, pro per, Hodgkins (current commissioner)

13 61. Miner has an imminent limited civil unlawful detainer to file. History has shown  
14 that it will be assigned to a commissioner in PS4. Standing has existed the day the complaint was  
15 filed. Most issues will be unearthed during discovery.

16 62. Miner owns six separate properties in the City of Desert Hot Springs and three  
17 properties nearby in the County area within jurisdiction of Palm Springs court. He has changed  
18 nothing on the cited land parcel. He has received a total of about six administrative citations on  
19 various land holdings. It is a substantial risk, almost certain, Miner will again visit the courthouse  
20 and be improperly assigned to a commissioner under the court's current policy.

21 63. In an act of simplicity Miner cites highlighted clips of federal cases that support his  
22 position on Article III standing and prospective relief. Miner has a more than likely chance of  
23 future injury based on the policy of the court, the injury will be redressed by relief requested.

24 {"That threatened future injury "must be an injury in fact." Id. (citing Susan B. Anthony  
25 List v. Driehaus, 573 U.S. 149, 158, 134 S.Ct. 2334, 189 L.Ed.2d 246 (2014)). That  
26 means, as relevant here, that the injury must be "'imminent' . . . 'to ensure that the alleged  
27 injury is not too speculative for Article III purposes.'" Id. at 721 (quoting Clapper v.  
28 Amnesty Int'l, 568 U.S. 398, 409, 133 S.Ct. 1138, 185 L.Ed.2d 264 (2013)). **"For a  
threatened future injury to satisfy the imminence requirement, there must be at least  
a 'substantial risk' that the injury will occur."** Id. (quoting Susan B. Anthony List, 573  
U.S. at 158, 134 S.Ct. 2334). "[P]ast wrongs [are] evidence" of the likelihood of a future  
injury but "do not in themselves amount to that real and immediate threat of injury

1 necessary to make out a case or controversy." City of Los Angeles v. Lyons, 461 U.S. 95,  
2 102, 103, 103 S.Ct. 1660, 75 L.Ed.2d 675 (1983).}

3  
4 {"To establish standing under Article III of the Constitution, a plaintiff must  
5 demonstrate (1) that he or she suffered an injury in fact that is concrete,  
6 particularized, and actual or imminent, (2) that the injury was caused by the  
7 defendant, and (3) that the injury would likely be redressed by the requested judicial  
8 relief." Thole v. U. S. Bank N.A., \_\_\_ U.S. \_\_\_, 140 S. Ct. 1615, 1618, 207 L.Ed.2d 85  
9 (2020). "[P]laintiffs seeking injunctive and declaratory relief can satisfy the redressability  
10 requirement only by demonstrating a continuing injury or threatened future injury."  
11 Stringer v. Whitley, 942 F.3d 715, 720 (5th Cir. 2019).}

12  
13 {"At the pleading stage, general factual allegations of injury resulting from the  
14 defendant's conduct may suffice, for on a motion to dismiss we `presum[e] that  
15 general allegations embrace those specific facts that are necessary to support the  
16 claim.'" Lujan v. Defs. of Wildlife, 504 U.S. 555, 561, 112 S.Ct. 2130, 119 L.Ed.2d 351  
17 (1992) (quoting Lujan v. Nat'l Wildlife Fed'n, 497 U.S. 871, 889, 110 S.Ct. 3177, 111  
18 L.Ed.2d 695 (1990)).}

19  
20 {"Even so, a "substantial risk" does not require that the threatened injury be  
21 "literally certain." Id. at 414 n.5, 133 S.Ct. 1138; see Lujan, 504 U.S. at 564 n.2,  
22 228\*228 112 S.Ct. 2130 (acknowledging that imminence "is concededly a somewhat  
23 elastic concept"); Babbitt v. United Farm Workers Nat'l Union, 442 U.S. 289, 298, 99  
24 S.Ct. 2301, 60 L.Ed.2d 895 (1979) (requiring that the plaintiff "demonstrate a realistic  
25 danger of sustaining a direct injury"); Kolender v. Lawson, 461 U.S. 352, 355 n.3, 103  
26 S.Ct. 1855, 75 L.Ed.2d 903 (1983) ("a credible threat"); Frame v. City of Arlington, 657  
27 F.3d 215, 235 (5th Cir. 2011) ("a sufficiently high degree of likelihood")}

28 {"Instead, a plaintiff seeking prospective relief need only show that future injury is

1 **"fairly likely."** Crawford v. Hinds Cnty. Bd. of Supervisors, 1 F.4th 371, 376 (5th Cir.  
2 2021); accord Arcia v. Fla. Sec'y of State, 772 F.3d 1335, 1341 (11th Cir. 2014) ("a  
3 realistic probability").}

4  
5 {**"In assessing whether the threatened injury is fairly likely to occur, evidence of**  
6 **prior injury is especially probative.** See Crawford, 1 F.4th at 376 (citing Los Angeles v.  
7 Lyons, 461 U.S. 95, 102, 103 S.Ct. 1660, 75 L.Ed.2d 675 (1983)). **Said another way, it**  
8 **"is not unduly conjectural" to use the "predictable effect" of the defendant's prior**  
9 **actions as a method to predict what will happen in the future.** Apple Inc. v. Vidal, 63  
10 F.4th 1, 17 (Fed. Cir. 2023) (quoting Dep't of Com. v. New York, \_\_\_ U.S. \_\_\_, 139 S. Ct.  
11 2551, 2566, 204 L.Ed.2d 978 (2019)). Injuries that are "one-off" instances or "episodic" in  
12 nature do not move the needle much. Crawford, 1 F.4th at 376. But where the causes that  
13 produced the first injury remain in place, past-injury evidence bears strongly "on whether  
14 there is a real and immediate threat of repeated injury." O'Shea v. Littleton, 414 U.S. 488,  
15 496, 94 S.Ct. 669, 38 L.Ed.2d 674 (1974); see Crawford, 1 F.4th at 376; accord In re Navy  
16 Chaplaincy, 697 F.3d 1171, 1176-77 (D.C. Cir. 2012) ("The prospect of future injury  
17 becomes significantly less speculative where, as here, plaintiffs have identified concrete  
18 and consistently-implemented policies claimed to produce such injury.").}

19  
20 {**Finally, a group of plaintiffs need not show that more than one of them is likely to**  
21 **be injured. "If at least one plaintiff has standing, the suit may proceed."** Biden v.  
22 Nebraska, \_\_\_ U.S. \_\_\_, 143 S. Ct. 2355, 2365, 216 L.Ed.2d 1063 (2023) (citing  
23 Rumsfeld v. F. for Acad. and Institutional Rts., Inc., 547 U.S. 47, 52 n.2, 126 S.Ct. 1297,  
24 164 L.Ed.2d 156 (2006)).}

25  
26 {**"But if a plaintiff seeks prospective relief, such as a declaratory judgment, he must**  
27 **"allege facts from which it appears there is a substantial likelihood that he will suffer**  
28 **injury in the future."** Malowney v. Fed. Collection Deposit Grp., 193 F.3d 1342, 1346



(11th Cir. 1999) (citing *City of Los Angeles v. Lyons*, 461 U.S. 95, 102, 103 S.Ct. 1660, 75 L.Ed.2d 675 (1983)). And that future injury must be "real," "immediate," and "definite." *Id.* at 1347.}

{“Nevertheless, under the principle established in *Ex parte Young*, 209 U.S. 123, 28 S.Ct. 441, 52 L.Ed. 714 (1908), private individuals may sue state officials in federal court for prospective relief from ongoing violations of federal law, as opposed to money damages, without running afoul of the doctrine of sovereign immunity. See *Va. Office of Prot. & Advocacy v. Stewart*, 563 U.S. 247, 254-55, 131 S.Ct. 1632, 179 L.Ed.2d 675 (2011).}

{“In determining whether the doctrine of *Ex parte Young* avoids an Eleventh Amendment bar to suit, a court need only conduct a straightforward inquiry into whether [the] complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective.” *Verizon Md. Inc. v. Pub. Serv. Comm’n of Md.*, 535 U.S. 635, 645, 122 S.Ct. 1753, 152 L.Ed.2d 871 (2002) (alteration in original) (quoting *Idaho v. Coeur d’Alene Tribe of Id.*, 521 U.S. 261, 296, 117 S.Ct. 2028 (1997))}

#### **E. JUDICIAL IMMUNITY DOES NOT APPLY TO COURT DEFENDANTS**

64. While Miner has addressed these issues, and the issue of appeal, Miner categorically states he has not, and does not request money damages. Shame on defendants alleging this after the issues are clear in the brief and in an email sent to counsel.

- “Miner “seeks prospective declaratory and injunctive relief against the Court defendants, not damages or retrospective relief” (FAC ¶12);
- “As a proximate result of the foregoing acts of City defendants, and each of them, plaintiff has suffered extreme hardship and damages, which damages include, but is not limited to, economic damages, according to proof at trial, but no less than \$2,000,000.00, and to appropriate declaratory and injunctive relief against all the

1 **defendants** (FAC ¶332)

2  
3 **Email to Matthew Green**

4 "From: Joseph Miner <josephminer@gmail.com>  
5 Sent: Friday, April 11, 2025 11:14 AM  
6 To: Matthew Green <Matthew.Green@bbklaw.com>  
7 Subject: Re: Miner v. City of Desert Hot Springs, et al., C.D. Cal. Case No.  
8 8:24-cv-02793-CAS-E

9 "As to damages requested in the complaint:

10 332. As a proximate result of the foregoing acts of City defendants, and each of them,  
11 plaintiff has suffered extreme hardship and damages, which damages include, but is not  
12 limited to, economic damages, according to proof at trial, but no less than \$2,000,000.00, and  
13 to appropriate declaratory and injunctive relief against all the defendants, and to their  
14 reasonable attorneys fees under 42 U.S.C.'section 1988.

15 I believe it is clear damages are against City defendants only."

16  
17 **F. THE CITY'S STATE COURT DISMISSAL MISCALCULATION**

18 65. The City ('true plaintiff' in the state case trial de novo CVPS2106001) stepped on  
19 the wrong side of the rake... Whoops! The vexatious litigant statute was not designed for  
20 plaintiffs (the City) to declare their own trial de novo defendants (the person ticketed) vexatious.

21 66. The outcome would make no legal, logical, or rational sense. The State Legislature  
22 considered that issue, and so have the courts. What happened in the state case CVPS2106001  
23 could not be what the Legislature intended when creating the statute below. The City got what it  
24 deserved. For a a \$500 fine. No defendant would pay \$1750 to win a trial, and the potential return  
25 of a potential just \$500 or '29% on their \$1750 investment.'

26 "The California legislature adopted the Vexatious Litigant Statute in 1963\* to ease the  
27 "unreasonable burden placed upon the courts by groundless litigation." Wolfgram v. Wells  
28 Fargo Bank, 53 Cal.App.4th 43, 61 Cal.Rptr.2d 694, 698 (1997). **The statute provides**  
**that a defendant in any state court may move the court to require a pro se plaintiff**  
**who qualifies as a "vexatious litigant"[3] to post a security bond before proceeding.**  
Cal.Civ.Proc.Code § 391.1 (Wolfe v. Strankman, 392 F. 3d 358 - Court of Appeals, 9th  
Circuit 2004) (\*de novo trials began long before 1963)

#### IV CONCLUSION

The California Supreme Court has been clear:  
“Neither the rule nor the statute purports to authorize a court commissioner to act as a temporary judge if he is not “otherwise qualified so to act,  
**and in the absence of a stipulation of the parties, he is not so qualified.”**  
(People v. Tijerina, 459 P. 2d 680 - Cal: Supreme Court 1969).

67. As a result of the City’s legal miscalculation the state case was dismissed without prejudice. Miner does not request this court review any aspect of the case, judgment or orders. The real question in this case is the law, common definitions, and the constitution. Can a defendant be thrown into a courtroom, held hostage, be held liable, have a permanent injunction be imposed, by a person, an individual in a black robe, without legal or judicial authority, and without consent of the parties litigant? Plaintiff, a semi retired 70 year old, contends what has happened to him, should not happen again, to anyone. Neither the statute §53069.4 or Court of Appeal case uses the magic words that a subordinate judicial officer may “hear and determine” a limited civil, trial de novo. As stated in the FAC, the legislature is clear when it appoints judicial powers. (FAC ¶194-197)

68. Defendants citation of *Martinez v. Winner* again fails. “*The principal defendant is Fred M. Winner, at all relevant times **Chief Judge of the United States District Court for the District of Colorado**, who presided over plaintiff’s trial in 1981 for mailing a letter bomb.*” (Martinez v. Winner, 771 F. 2d 424 - Court of Appeals, 10th Circuit 1985) The citation has nothing to do with state law, rules and policy, and not cited in any California state court.

69. State administrative policies and rules of the court as described by Plaintiff. (*ante*) The presiding judge and defendant’s administrative policy, violating constitutional rights of defendants, do not thrive with impunity and are not shielded from the constitution. Assigning judicial power to lawyers hired by the court is not a power instilled in the presiding judge, authorized by the state constitution, and violates the federal constitution as pleaded.


70. As clearly stated in *Jovine v. FHP, Inc.*, 76 Cal. Rptr. 2d 322 - Cal: COA, 1998, heard after GC. 53079.4 was enacted, “**in the absence of a proper stipulation, the responsibility to decide cannot be delegated.**”

1 “This statutory scheme carefully preserves the distinction which must be maintained  
2 between general and special references in order to comply with the constitutional mandate  
3 regarding the delegation of judicial power. “[A] **general reference has binding effect,  
4 but must be consensual**, whereas a **special reference may be ordered without consent  
5 but is merely advisory**, not binding on the [ ] court [Citations.]” (Aetna Life Ins. Co. v.  
6 Superior Court (1986) 182 Cal.App.3d 431, 436, 227 Cal.Rptr. 460.)”

7 70. Based on all documents, declarations and exhibits filed with this court, the  
8 foregoing, Plaintiff’s supporting declaration and exhibits, Plaintiff requests this court deny  
9 Defendants’ 12(b)(1) and 12(b)(6)motion in total. Plaintiff requests this court take judicial notice  
10 of all past and current public documents (exhibits) filed with the state court including all state  
11 court filings. Plaintiff, could produce the entire 5,000+ page certified record, if required. Miner  
12 believes that all documents produced as exhibits thus far have been public or part of the state  
13 court or federal court record or have been authored by an officer of the court.

14 71. Plaintiff requests leave to amend if necessary to cure any deficiency in the  
15 pleading, and, if necessary, leave to amend to permit additional defendants (California Attorney  
16 General if necessary), counts for constitutional first amendment retaliation, and perhaps  
17 deprivation of rights under color of law against City defendants. Plaintiff submits this is the first  
18 complaint served on any defendant; effectively it is the initial federal complaint.

19 Respectfully submitted,

20   
21 Joseph Miner, pro se, 5/14/25  
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28

**DECLARATION OF JOSEPH MINER**

I, Joseph Miner declare:

1. I state the following facts and history of my own personal knowledge and if called, I can and would testify competently thereto.

2. Except where stated in this declaration upon information and belief, the facts set forth in this declaration are known to me personally, and, if called and sworn as a witness in a court of law, I could and would competently testify to such facts. As for those facts stated upon information and belief, I believe in good faith that they are true.

3. My name is Joseph Miner. I am over the age of eighteen (18).

4. I personally authored the foregoing opposition.

5. I have no formal training as a lawyer or attorney.

6. All facts, history described by me, and law, documents and exhibits provided by me, are true and correct to the best of my knowledge.

7. Listening to many federal circuit court oral arguments a repetitive question by the judges is “**well then, to get this before the court, who should they sue?**” I have sued the persons who can change the unlawful administrative practice of commissioner assignments without stipulation.

**ATTACHED EXHIBITS**

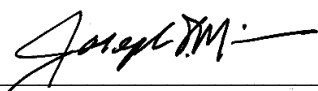
8. **EXHIBIT 1: Verified declaration of Hon. Arthur Hester**

9. **EXHIBIT 2: True and correct copy of 1967 Judicial Council report**

(3) relevant pages regarding commissioners as referenced in opposition.

10. Miner requests the court take judicial notice of these two public documents.

I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct, and that this declaration is executed this 14<sup>th</sup> day of May 2025, in the County of Orange, State of California.

  
\_\_\_\_\_  
Joseph Miner, plaintiff, pro se